

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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APRIL SUMMERS,

Plaintiff,

- against -

SUFFOLK COUNTY SHERIFF DEPARTMENT –  
ERROL D. TOULON, and C.O. JOHN DOE,  
BADGE # 1688,

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**  
19-CV-136 (RRM) (LB)

Defendants.

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APRIL SUMMERS,

Plaintiff,

- against -

19-CV-1268 (RRM) (LB)

C.O. ALEX MYLETT, *et al.*,

Defendants.

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APRIL SUMMERS,

Plaintiff,

- against -

18-CV-7472 (RRM) (LB)

SUFFOLK COUNTY SHERIFF DEPT. – ERROL D.  
TOULON, *et al.*,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

Plaintiff April Summers filed these three civil rights actions while she was incarcerated at Suffolk County Correctional Facility. Although Magistrate Judge Lois Bloom ordered Summers to appear at an initial conference for all three matters on September 18, 2019, Summers failed to appear for that conference. Judge Bloom issued an order warning Summers that if she failed to

appear for the next status conference on October 30, 2019, Judge Bloom would recommend that the three cases be dismissed. (*See* 18-CV-7472 (Doc. No. 36), 19-CV-1268 (Doc. No. 27), 19-CV-136 (Doc. No. 29).) Summers did not appear for the next status conference, nor did she contact the Court or defense counsel to request an adjournment or explain her absence.

On October 30, 2019, Judge Bloom issued a report and recommendation (the “R&R”), recommending that this Court dismiss Summers’ three cases pursuant to Federal Rules of Civil Procedure 16(f) and 37(b)(2)(A)(v). The Clerk of Court mailed the R&R to Summers on October 31, 2019. The R&R stated that any objections had to be filed within 14 days of receipt of the R&R. *See* FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1). No party filed any objection.

Despite Summers’ repeated failure to comply with court orders, on November 21, 2019, this Court provided Summers one final opportunity to demonstrate that she is still interested in litigating her cases. (*See* Order to Show Cause, 18-CV-7472 (Doc. No. 40), 19-CV-1268 (Doc. No. 31), 19-CV-136 (Doc. No. 33).) The Court ordered Summers to show cause in writing by December 11, 2019, why her cases should not be dismissed in accordance with Judge Bloom’s recommendation. The Clerk of Court mailed the Order to Show Cause to Summers at all of her known addresses on November 22, 2019. To date, Summers has not filed a response or requested an extension of time, and the time for doing so has expired.

When determining whether to adopt a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where no party has objected to a magistrate judge’s report and recommendation, the court may adopt it without *de novo* review. *See Trustees of Local 7 Tile Indus. Welfare Fund v. Caesar Max Const. Inc.*, No. 18-CV-1339 (FB) (LB), 2019 WL 1129430, at \*1 (E.D.N.Y. Mar. 12, 2019). “To accept the report and recommendation of a

magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks omitted) (citation omitted); *see also Riverkeeper, Inc. v. MLV Concrete, Inc.*, No. 14-CV-3762 (LDH) (PK), 2017 WL 3172859, at \*1 (E.D.N.Y. July 25, 2017).

The Court has reviewed the record and, finding no clear error, adopts the R&R in its entirety as the opinion of the Court. Summers’ failure to appear at two court-ordered conferences, and her failure to respond to this Court’s Order to Show Cause, demonstrates that she is no longer interested in pursuing her cases. Accordingly, the cases are dismissed pursuant to Rules 16(f) and 37(b)(2)(A)(v) of the Federal Rules of Civil Procedure.

### **CONCLUSION**

The three above-captioned cases are dismissed. The Clerk of Court is respectfully directed to enter judgment in favor of defendants in these three cases, to mail a copy of the judgments and this Order to Summers, to note the mailing on the docket sheets, and to close the cases.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppededge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

Dated: Brooklyn, New York  
*Dec. 22*, 2019

s/Roslynn R. Mauskopf

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ROSLYNN R. MAUSKOPF  
United States District Judge